PART IV

SECTION 1-B

CENTRAL ACTS AND ORDINANCES

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 23 LCA 78.

Bangalore, dated 4th May 1978

Ordered that the Children (Amendment) Act, 1978 (No. 15 of 1978) published in Part II, Section 1 of the *Gazette of India* Extraordinary, dated 1st April 1978 be republished in the *Karnataka Gazette* for General information.

By Order and in the name of the Governor of Karnataka,

A. NEELAKANTARYA,
Under Secretary to Government,
Department of Law and Parly. Affairs.

Assented to on 31-3-78 Act No. 15 of 1978

THE CHILDREN (AMENDMENT) ACT, 1978

AN

ACT

to amend the Children Act, 1960

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows :—

1. **Short title and commencement** —(1) This Act may be called the Children (Amendment) Act, 1978.

(2) It shall come into force in any Union territory on such date as the Administrator may, by notification in the Official Gazette, appoint.

2. **Substitution of references to "Code of Criminal Procedure, 1898" by references to "Code of Criminal Procedure, 1973".**— Throughout the Children Act, 1960, (60 of 1960) (hereinafter referred to as the principal Act), unless otherwise expressly provided in this Act, for the words and figures "Code of Criminal Procedure, 1898" (5 of 1898) wherever they occur, the words and figures "Code of Criminal Procedure, 1973" (2 of 1974) shall be substituted.

3. **Amendment of section 2.**—In section 2 of the principal Act,—

(*i*) after clause (j), the following clause shall be inserted, namely :—

'(*jj*) "fit person" or "fit institution" means any person or institution (not being a police station or jail) found fit by the competent authority to receive and take care of a child entrusted to his or its care and protection on the terms and conditions specified by the competent authority ;

'(*ii*) in sub-clause (*iii*) of clause (*l*), after the word "unfit", the words "or unable" shall be inserted ;

(*iii*) after clause (*n*), the following clause shall be inserted, namely :—

'(*nn*) "place of safety" means any place or institution (not being a police station or jail), the person in charge of which is willing temporarily to receive and take care of a child and which in the opinion of the competent authority may be a place of safety for the child ;

(*iv*) in clause (*r*), for the words "fit person", the words "fit person or fit institution" shall be substituted.

4. **Amendment of section 4.** In section 4 of the principal Act, in sub-section (3), for the words and figures "Code of Criminal Procedure, 1898 (5 of 1898), on a magistrate of the first class", the words and figures "Code of Criminal Procedure, 1973, (2 of 1974) on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of the first class" shall be substituted.

5. **Amendment of section 5.**—In section 5 of the principal Act, for sub-section (2) the following sub-sections shall be substituted, namely :—

"(2) A children's court shall consist of such number of Metropolitan Magistrates or Judicial Magistrates of the first class, as the case may be, forming a Bench as the Administrator thinks fit to appoint, of whom one shall be designated as the principal magistrate ; and every such Bench shall have the powers conferred by the Code of Criminal Procedure, (1973 2 of 1974), on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of the first class.

(3) Every children's court shall be assisted by a panel of two honorary social workers possessing such qualifications as may be prescribed, of whom at least one shall be a woman, and such panel shall be appointed by the Administrator."

6 **Amendment of section 6.**—In section 6 of the principal Act, in sub-section (1), for the words "senior magistrate", the words "principal magistrate" shall be substituted.

7 **Amendment of section 7**—In section 7 of the principal Act.—

(i) to sub-section (1), the following provisos shall be added, namely:—

"Provided that a Board or a children's court may, if it is of opinion that it is necessary so to do having regard to the circumstances of the case, transfer any proceedings to any children's court or Board, as the case may be:

Provided further that where there is any difference of opinion between a Board and a children's court regarding the transfer of any proceedings under the first proviso, it shall be referred to the Chief Metropolitan Magistrate or, as the case may be, the Chief Judicial Magistrate for decision and in a case where the District Magistrate is functioning as a Board or a childrens court, such difference of opinion shall be referred to the Court of Session, and the decision of the Chief Metropolitan Magistrate or Chief Judicial Magistrate or, as the case may be, the Court of Session on such reference shall be final."

(ii) in sub-section (2), for clause (c), the following clause shall be substituted, namely:—

"(c) any Metropolitan Magistrate or Judicial Magistrate of the first class, as the case may be."

8 **Amendment of Section 9**—In section 9 of the principal Act,—

(i) in sub-section (3), the words "to ensure all round growth and development of his personality, shall be added at the end;

(ii) in sub-section (4), after the words "childrens homes", the words, "including the standards and the nature of services to be maintained by them," shall be inserted.

9 **Amendment of section 10**—In section 10 of the principal Act,

(i) in sub-section (3), the words "to ensure all round growth and development of his personality" shall be added at the end;

(ii) in sub-section (4), after the words "special schools" the words, "including the standards and the nature of services to be maintained by them," shall be inserted.

10. **Amendment of section 11.**—In section 11 of the principal Act, in sub-section (4), after the words "observation homes", the words, "including the standards and the nature of services to be maintained by them," shall be inserted.

11. **Substitution of new section for section 12.**—For section 12 of the principal Act, the following section shall be substituted, namely :—

"12. **After-care organisations.**—The Administrator may, by rules made under this Act, provide—

(a) for the establishment or recognition of after-care organisations and the powers that may be exercised by them for effectively carrying out their functions under this Act;

(b) for a scheme of after-care programme to be followed by such after-care organisations for the purpose of taking care of children after they leave children's homes or special schools and for the purpose of enabling them to lead an honest, industrious and useful life ;

(c) for the preparation and submission of a report by the probation officer in respect of each child prior to his discharge from a children's home or special school, as the case may be, regarding the necessity and nature of after-care of such child, the period of such after-care, supervision thereof and for the submission of a report by the probation officer on the progress of each such child ;

(d) for the standards and the nature of services to be maintained by such after-care organisations ;

(e) for such other matters as may be necessary for the purpose of effectively carrying out the scheme of after-care programme of children.".

12. **Amendment of sections 14, 17 and 18.**—In sub-section (2) of section 14, section 17 and sub-sections (2) and (3) of section 18 of the principal Act, after the words "observation home", the words "or a place of safety" shall be inserted.

13. **Amendment of section 15.**—In sub-section (3) of section 15 of the principal Act —

(i) in the opening portion, after the words "observation home", the words "or a place of safety" shall be inserted ;

(ii) in the proviso, after the word "unfit", the words "or unable" shall be inserted.

14. **Amendment of section 24.**—In section 24 of the principal Act, in sub-sections (1) and (2), for the words and figures "section 239 of the Code of Criminal Procedure, 1898", (5 of 1898) the words and figures "section 223 of the Code of Criminal Procedure, 1973" (2 of 1974) shall be substituted.

15. **Amendment of section 28.**—In section 28 of the principal Act,—

(i) in sub-section (1), in clause (b), after the words "police officers", the words "and legal practitioners" shall be inserted ;

(ii) for sub-section (3), the following sub-section shall be substituted, namely :—

"(3) No legal practitioner shall be entitled to appear before a Board in any case or proceeding before it, except with the special permission on that Board.".

16. **Amendment of section 50.**—In section 50 of the principal Act, in sub-sections (3) and (4), for the words and figures "section

488 of the Code of Criminal Procedure, 1898", (5 of 1898) the words and figures "section 125 of the Code of Criminal Procedure, 1973" (2 of 1974) shall be substituted.

17. **Amendment of section 55.**—In section 55 of the principal Act, for the words and figures ' Chapter XLII of the Code of Criminal Procedure, 1898", (5 of 1898) the words and figures (Chapter XXXIII of the Code of Criminal Procedure, 1973" (2 of 1974) shall besubstituted.

18. **Amendment of section 58.** In section 58 of the principal Act,- in sub-section (1), for the words, figures and letter "section 29B and section 399 of the Code of Criminal Procedure, 1898", (5 of 1898) the words andfigures "section 27 of the Code of Criminal Procedure, 1973 (2 of 1974) shall be substituted.

19. **Amendment of section 59** —In section 59 of the principal Act,—

(i) in sub-section (2),—

(a) in clause (d), the words "and the standards and the nature of services to be maintained by them" shall be added at the end;

(b) in clause (g), the words and figures ' and such other matters as are referred to in section 12" shall be added at the end;

(c) in clause (m)—

(1) for the words " fit person ", the words " fit person or fit institution" shall be substituted;

(2) for the word "persons", the words "persons or institutions" shall be substituted;

(ii) for sub-section (3), the following sub-section shall be substituted, namely :— .

"(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

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